



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

June 28, 2017

Naomi Powell
315 W 15th Street
Newton, NC 28658

NOTICE OF SUSPENSION OF EUTHANASIA TECHNICIAN CERTIFICATION

Re: SUSPENSION OF EUTHANASIA TECHNICIAN CERTIFICATION FOR VIOLATIONS OF TITLE 02 N. C. ADMINISTRATIVE CODE (NCAC), CHAPTER 52J, SECTION .0419(7).

AWS-SU-2017-1

Dear Ms. Powell:

Pursuant to N. C. General Statute §19A-24(b)(7)(a), I am issuing this notice to you that your Euthanasia Technician Certification is hereby **SUSPENDED** for violation of Title 02 NCAC, Chapter 52J, Section .0419(7).

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-23, within five (5) days of the Order of Suspension becoming effective. Filing a petition will require a payment of twenty dollars to the North Carolina Office of Administrative Hearings (see below, "Appeal").

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.
You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

If the violations which resulted in the suspension are of a continuing or repeating nature, NCDA&CS reserves the right to take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Order of Suspension

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

NAOMI POWELL
CERTIFIED EUTHANASIA
TECHNICIAN

) NOTICE OF VIOLATIONS AND
) ORDER OF SUSPENSION OF
) CERTIFICATION
) FOR VIOLATIONS TITLE 02 N. C.
) ADMINISTRATIVE CODES
) 52J .0419(7).
)

Acting pursuant to N.C. Gen. Stat. §19A-24(b)(7)(a), Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Naomi Powell (the CET) was a certified euthanasia technician, pursuant to N.C. General Statute §19A-24(b).
2. On June 19, 2017, AWS Animal Health Technician Lindsey Harris ("Inspector Harris"), conducted a euthanasia inspection at the Catawba County Animal Shelter.
3. During the June 19, 2017 euthanasia inspection, Inspector Harris observed you conducting the euthanasia of 3 cats.
4. During the euthanasia of cat #1, immediately upon administration of the intraperitoneal ("IP") injection of euthanasia solution, the cat was placed in a plastic bag on the floor. The head of the cat was not covered by the plastic bag. You then proceeded to euthanize cat #2. Cat #1 was then sealed into the plastic bag without you having verified its death. Although done when you did not observe the verification, Inspector Harris did verify the death of this cat while you were euthanizing cat #2.
5. During the euthanasia of cat #2, you used the same needle and euthanasia solution remaining in the syringe from cat #1. Immediately upon administration of the IP injection of euthanasia solution, this cat was placed cat into a crate. You did not verify the death of this cat prior to disposal.
6. During the euthanasia of cat #3, you allowed your assistant to drag the cat into the euthanasia room and to restrain the cat by using her boot on the back legs of the cat. Immediately upon the administration of the IP injection of euthanasia solution, this live cat was placed into the crate with the dying/deceased cat #2. At this point, Inspector Harris directed all euthanasia activities to cease. Inspector Harris then allowed the Shelter Director who is a CET and another CET to verify the death of cats #2 and #3 and to continue with the euthanasia that was necessary for that day.
7. After directing you to cease euthanizing animals, Inspector Harris noticed you had a cat housed in a kennel on the shelf in the euthanasia room. This arrangement caused the cat to be present and observe the euthanasia of those 3 cats. Inspector Harris had the Shelter Director remove this cat before the euthanasia activities resumed.

8. On June 19, 2017, Inspector Harris discussed the violations she observed with the Shelter Director and they mutually agreed to prohibit you from conducting euthanasia activities until this matter had been reviewed by the Director of the Animal Welfare Section.

CONCLUSIONS

As a result of this investigation, the Animal Welfare Section of the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, finds that you, either by act or omission, violated the provisions of Title 02 North Carolina Administrative Code 52J .0419(7) during each of these 3 euthanasia procedures.

The following actions that you were observed committing during the 3 euthanasia procedures violate the practices generally and currently followed and accepted as approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association:

- 1) Placing a live animal into a plastic bag;
- 2) Failing to verify death of an animal that you euthanized;
- 3) Using the same needle for injections on multiple animals;
- 4) Placing a live animal into the same crate as a deceased animal;
- 5) Inhumane restraint and handling of an animal immediately preceding the euthanasia of that animal; and
- 6) Housing a live animal in the euthanasia room such that the animal is exposed to the euthanasia process of other animals.

(See Appendix for text of cited General Statutes and Administrative Code)

SUSPENSION OF CERTIFICATION AS EUTHANASIA TECHNICIAN


Due to the gross incompetence and the egregious nature of the violations of Title 02 NCAC 52J .0419(7) that occurred in all 3 euthanasia procedures you performed during the euthanasia inspection on June 19, 2017, I am hereby suspending your certification as a euthanasia technician. This suspension is effective immediately.

This suspension shall remain in effect until the following conditions have been met:

- 1) You have attended and successfully completed a euthanasia technician training course after the date of this Order of Suspension; and
- 2) You have passed the written examination for euthanasia technicians after the completion of the course required above; and
- 3) You have passed the practical examination for euthanasia technicians after the completion of the course required above; and
- 4) You have successfully completed 30 days of performing euthanasia technician duties under the direct supervision of another CET. These duties must be performed without violation of N. C. Animal Welfare Act, N. C. General Statutes §19A-20 – 19A-40 and the regulations issued pursuant to in Title 02 NCAC 52J Sections .0100 - .0800 for the completion of the 30 days of performance of duties to be deemed successful; and

- 5) You conduct a minimum of 3 euthanasia procedures under the observation of an AWS Inspector without violation of the statutes and regulations noted above.

June 28, 2017
Date


Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-24. Powers of Board of Agriculture.

(a) The Board of Agriculture shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.
- (2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.
- (3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.
- (4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.
- (5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The Department shall establish rules for the euthanasia process using any one or combination of methods and standards prescribed by the three aforementioned organizations. The rules shall address the equipment, the process, and the separation of animals, in addition to the animals' age and condition. If the gas method of euthanasia is approved, rules shall require (i) that only commercially compressed carbon monoxide gas is approved for use, and (ii) that the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. Rules shall also mandate training for any person who participates in the euthanasia process.

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture shall adopt rules for the certification of euthanasia technicians. The rules may provide for:

- (1) Written and practical examinations for persons who perform euthanasia.
- (2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.
- (3) Recertification of euthanasia technicians on a periodic basis.
- (4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.
- (5) Approval of materials for use in euthanasia technician training.
- (6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.
- (7) Denial, suspension, or revocation of certification of euthanasia technicians who:
 - a. Violate any provision of this Article or rules adopted pursuant to this Article;
 - b. Have been convicted of or entered a plea of guilty or nolo contendere to:
 1. Any felony;
 2. Any misdemeanor or infraction involving animal abuse or neglect; or

3. Any other offense related to animal euthanasia, the duties or responsibilities of a euthanasia technician, or a euthanasia technician's fitness for certification;
- c. Make any false statement, give false information, or omit material information in connection with an application for certification or for renewal or reinstatement of certification as a euthanasia technician; or
- d. Otherwise are or become ineligible for certification.
- (8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.
- (9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.
- (10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians.

(1977, 2nd Sess., c. 1217, s. 5; 1987, c. 827, s. 62; 2004-199, s. 12; 2005-276, s. 11.5(b); 2005-345, s. 22; 2008-198, s. 2(a); 2010-127, ss. 2, 3; 2014-100, s. 17.1(o).)

02 NCAC 52J .0419 GROUNDS FOR DISCIPLINE - CERTIFIED EUTHANASIA TECHNICIANS

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

- (7) Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public. Such conduct includes working in conjunction with any agency or person illegally practicing as a Certified Euthanasia Technician; failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; euthanizing animals in a manner that endangers the health or welfare of the public; gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association; intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and swearing falsely in any testimony or affidavits relating to practicing as a Certified Euthanasia Technician;

History Note: *Authority G.S. 19A-24;*
Eff. March 23, 2009.